

MEMORANDUM

DATE: December 28, 2010

TO: Michael Amling

FROM: Elizabeth Hohertz

SUBJECT: Information Supplementing the Natural Environment Study (September 29, 2010) for the I-5 High-Occupancy Vehicle Lane Extension Project (LSA Project No. RMN0901)

This memorandum serves to document the changes made in the I-5 HOV Lane Extension Project Natural Environment Study (NES) signed September 29, 2010. Table A describes the changes made to the measures and their locations in the NES report (Table A attached).

Attachment: Table A, Changes to NES report

Table A: Changes to NES Report

Location in NES	Old NES Text	Revised NES Text
Summary, Second paragraph, Page iv	To offset impacts to jurisdictional areas, a compensatory mitigation program for the project may be needed. Compensatory mitigation may involve habitat restoration within State right-of-way, mitigation at agency-approved off-site locations, or participation in agency-approved mitigation banks. The final compensatory mitigation program is expected to adequately offset project-related jurisdictional impacts by providing “No Net Loss” of wetland and riparian habitats.	To offset impacts to jurisdictional areas, a compensatory mitigation program for the project may be needed. Compensatory mitigation may involve habitat restoration, mitigation at agency-approved off-site locations, or participation in agency-approved mitigation banks. The final compensatory mitigation program is expected to adequately offset project-related jurisdictional impacts by providing “No Net Loss” of wetland and riparian habitats.
Section 4.1.1.4, first paragraph; and Section 4.3.5.4, first paragraph	For CSS occupied by CAGN or within CAGN-designated critical habitat, the proposed minimum mitigation ratios of 3:1 for permanent impacts and 1:1 for temporary impacts are consistent with USFWS standards. Compensatory mitigation would require on-site restoration in the State right-of-way or off-site acquisition of conservation lands and restoration efforts to enhance or create CSS. Options for compensatory mitigation will be evaluated through coordination among the Orange County Transportation Authority (OCTA), the California Department of Transportation (Caltrans), and the resource agencies.	<p>In January 2010, OCTA, the Department, and the resource agencies executed a Planning Agreement and Memorandum of Agreement to initiate an NCCP/HCP/MSAA. The purpose of the NCCP/HCP/MSAA is to streamline the biological resources permitting process for the 13 Measure M2 freeway projects. This planning process commenced in July 2010 and is expected to be completed in a 24-month timeframe.</p> <p>In September 2010, the OCTA Board of Directors authorized approximately \$5.5 million for restoration activities consisting of six restoration projects. These restoration projects contain benefits to multiple habitats such as riparian, upland, CSS, oak woodland, and native grassland. On a parallel path, OCTA is currently in the process of acquiring conservation lands that will be integrated into the NCCP/HCP/MSAA planning process. The acquisition properties possess the habitats and species necessary to offset impacts from the 13 freeway projects.</p> <p>For coastal sage scrub (CSS) occupied by coastal California gnatcatcher (CAGN) or in CAGN-designated critical habitat, the mitigation ratios will be consistent with the United States Fish and Wildlife (USFWS) standards. Compensatory mitigation may include off-site acquisition of conservation lands and restoration efforts to</p>

		enhance or create CSS, which could be accomplished through participation in the Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement (NCCP/HCP/MSAA) being established by Measure M2.
Section 4.1.2.2, First bullet	Prior to clearing or construction, highly visible barriers (such as orange construction fencing) will be installed around riparian and riverine communities adjacent to the project disturbance limits to designate ESAs to be preserved. No grading or fill activity of any type will be permitted within ESAs. In addition, no construction activities, materials, or equipment will be allowed within ESAs. All construction equipment will be operated in such a manner as to prevent accidental damage to nearby ESAs. No structure of any kind, or incidental storage of equipment or supplies, will be allowed in ESAs. Silt fence barriers will be installed at the ESA boundaries to prevent accidental deposition of fill material in areas where vegetation is immediately adjacent to planned grading activities.	Prior to clearing or construction, highly visible barriers (such as orange construction fencing) will be installed around riparian and riverine communities adjacent to the project disturbance limits to designate Environmentally Sensitive Areas (ESAs) to be preserved. No grading or fill activity of any type will be permitted within ESAs. In addition, no construction activities, materials, or equipment will be allowed within ESAs. All construction equipment will be operated in such a manner as to prevent accidental damage to nearby ESAs. No structure of any kind, or incidental storage of equipment or supplies, will be allowed in ESAs. Silt fence barriers will be installed at the ESA boundaries to prevent accidental deposition of upstream fill material into areas where vegetation is immediately adjacent to planned grading activities.
Section 4.1.2.2, Second bullet	In order to avoid impacts to nesting birds, any native or exotic vegetation removal, tree trimming activities, or bridge demolition will occur outside of the nesting season (February 15–August 31). In the event that vegetation clearing is necessary during the nesting season, a qualified biologist will conduct a preconstruction survey to identify the locations of nests. Should nesting birds be found, an exclusionary buffer will be established by the biologist. This buffer will be clearly marked in the field by construction personnel under the guidance of the biologist, and construction or clearing will not be conducted in this zone until the biologist determines that the young have fledged or the nest is no longer active.	In order to avoid impacts to nesting birds, any native or exotic vegetation removal, tree trimming activities, or bridge demolition will occur outside of the nesting season. The nesting season is from February 15 to August 31. In the event that vegetation clearing is necessary during the nesting season, a qualified biologist will conduct a preconstruction survey to identify the locations of nests. Should nesting birds be found, an exclusionary buffer will be established by the biologist. This buffer will be clearly marked in the field by construction personnel under the guidance of the biologist, and construction or clearing will not be conducted in this zone until the biologist determines that the young have fledged or the nest is no longer active.
Section 4.1.2.4, Third paragraph	If required, compensatory mitigation will be mitigated at a minimum mitigation-to-effect ratio of 3:1 for permanent effects and 1:1 for temporary effects, which is consistent with the Corps and CDFG policies for no net loss of riparian/riverine habitats (e.g., wetlands)	In January 2010, OCTA, the Department, and the resource agencies executed a Planning Agreement and Memorandum of Agreement to initiate an NCCP/HCP/MSAA. The purpose of the NCCP/HCP/MSAA is to streamline the biological resources permitting process for the 13 Measure M2 freeway projects. This

	standards. This mitigation may be accomplished through the payment of an in-lieu fee, habitat restoration and/or enhancement of on- or off-site areas, or another mechanism approved by the resource agencies.	<p>planning process commenced in July 2010 and is expected to be completed in a 24-month timeframe.</p> <p>In September 2010, the OCTA Board of Directors authorized approximately \$5.5 million for restoration activities consisting of six restoration projects. These restoration projects contain benefits to multiple habitats such as riparian, upland, CSS, oak woodland, and native grassland. On a parallel path, OCTA is currently in the process of acquiring conservation lands that will be integrated into the NCCP/HCP/MSAA planning process. The acquisition properties possess the habitats and species necessary to offset impacts from the 13 freeway projects.</p> <p>If required, compensatory mitigation will be mitigated at a mitigation-to-effect ratio consistent with the United States Army Corps of Engineers (Corps) and California Department of Fish and Game (CDFG) policies for no net loss of riparian/riverine habitat (e.g., wetlands) standards. This mitigation could be accomplished through participation in the NCCP/HCP/MSAA being established by Measure M2.</p>
Section 4.4.4, third and fourth paragraphs	If a project design is chosen or the agencies assert jurisdiction over an area believed not to be subject to their jurisdiction, compensatory mitigation will be required. Typically, impacts to jurisdictional waters subject to Corps and CDFG jurisdiction are mitigated at a minimum mitigation-to-effect ratio of 3:1 for permanent effects and 1:1 for temporary effects, which is consistent with the Corps and CDFG policies for no net loss of wetlands standards. This mitigation may be accomplished through the payment of an in-lieu fee, habitat restoration and/or enhancement of on- or off-site areas, or another mechanism approved by the resource agencies.	The I-5 HOV Lane Extension Project is expected to result in direct permanent impacts to areas, that based on the surveys and analysis completed for the Jurisdictional Delineation (August 2010), were found not to be subject to jurisdiction under Sections 404 and 401 of the Clean Water Act (CWA) or under Section 1600 of the California Fish and Game Code. Should the agencies assert jurisdiction over an area found not to be subject to their jurisdiction and the project impacts this area, compensatory mitigation may be required by the resource agencies. If required, compensatory mitigation will be mitigated at a mitigation-to-effect ratio consistent with the United States Army Corps of Engineers (Corps) and California Department of Fish and Game (CDFG) policies for no net loss of riparian/riverine habitat (e.g., wetlands) standards. This mitigation could be accomplished through participation in the NCCP/HCP/MSAA being established by Measure M2.